EXHIBIT
A

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

ALLEY CAT ALLIES INCORPORATED
7920 Norfolk Avenue Suite 600
Bethesda, Maryland 20814

Plaintiff,

vs.

SUMMIT COUNTY ANIMAL CONTROL DEPARTMENT
C/O ILENE SHAPIRO, COUNTY EXECUTIVE
175 South Main Street – 8th floor
Akron, OH 44308

SUMMIT COUNTY, OHIO
C/O ILENE SHAPIRO, COUNTY EXECUTIVE
175 South Main Street – 8th floor
Akron, OH 44308

CHRISTINE FATHEREE,
in her official capacity as Director of Summit County Animal Control Department,
C/O ILENE SHAPIRO, COUNTY EXECUTIVE
175 South Main Street – 8th floor
Akron, OH 44308

and

KRISTINA PETROSKI,
in her official capacity as employee of Summit County Animal Control Department,
C/O ILENE SHAPIRO, COUNTY EXECUTIVE
175 South Main Street – 8th floor
Akron, OH 44308

Defendants.

CASE NO. CV-2024-12-5393

JUDGE CHRISTINE CROCE

FIRST AMENDED COMPLAINT WITH REQUEST FOR INJUNCTIVE, DECLARATORY, MANDAMUS RELIEF

JURY DEMAND ENDORSED HEREIN

NOW COMES the Plaintiff, Alley Cat Allies Incorporated, by counsel, and respectfully desires to amend its Complaint in accordance with Rule 15(A) of the Ohio Rules of Civil Procedure, pursuant to which this amendment is allowed as a matter of course and no leave of court or opposing party consent is required within 28 days of the filing of a 12(B)(6) motion. Plaintiff states the following for its First Amended Complaint:

PARTIES AND JURISDICTION

1. Plaintiff Alley Cat Allies Incorporated (Alley Cat Allies) is a global nonprofit 501(c)(3) organization based in Maryland and registered as a foreign entity in Ohio whose mission is to transform and develop communities to protect and improve the lives of cats through its key programs: advocacy, humane care, education and outreach, and law and policy change.

2. Alley Cat Allies empowers and mobilizes individuals, advocates, grassroots groups, shelters, veterinary professionals, and elected officials across the United States and around the world to improve their communities for cats through nonlethal, evidence-based approaches.

3. Alley Cat Allies is the leading expert, and a pioneer in the United States, of Trap-Neuter-Return ("TNR"), whereby cats are trapped, spayed or neutered, eartipped, vaccinated and given veterinary care, and returned to the exact outdoor areas where they were trapped, and has decades of experience partnering with localities to implement successful TNR programs.

4. In fact, Alley Cat Allies was formed in 1990 to bring TNR, which was already taking root in the United Kingdom, to the United States. Alley Cat Allies' goal was to upend the relentless, ineffective, and pointless cycle of catching and killing cats in animal shelters

that had been standard procedure for decades. Alley Cat Allies launched a national movement with its educational materials, regional workshops, mobilization of grassroots advocates, and re-writing of laws. As a result of this hard work, TNR has become mainstream in the United States and a benchmark of humane care for cats.

5. Alley Cat Allies is a leader in the global movement to protect cats and kittens, with more than 1.4 million supporters across the nation and around the world.

6. Alley Cat Allies' supporters are a discrete group of individuals, worldwide, who share a common interest in supporting the well-being of cats all over the world and donate to Alley Cat Allies because Alley Cat Allies is committed to that mission. That commitment extends to Ohio, where Alley Cat Allies has over 47,000 supporters, and more specifically to Summit County, Ohio, where Alley Cat Allies has over a thousand supporters and has expended money, time, and resources to promote the well-being of cats within and surrounding Summit County, Ohio since at least 2002.

7. Specifically, Alley Cat Allies has expended funds in Summit County, Ohio, met with and advised local advocates, local animal welfare organizations and stakeholders, and plans to continue to expand education and advocacy efforts to defend and improve the lives of cats in Summit County, Ohio.

8. Alley Cat Allies has standing because Summit County's actions have and will, with reasonable certainty, injure and impede its ability to carry out its mission in Summit County, Ohio and has already forced Alley Cat Allies to divert resources to protecting cats who find themselves in Summit County, Ohio.

9. Defendant Summit County Animal Control Department (SCACD) is the Summit County, Ohio dog shelter that houses dogs impounded by a county dog warden organized pursuant

to ORC §955.15 and otherwise houses cats pursuant to Defendant Summit County, Ohio's Codified Ordinances.

10. Defendant Summit County, Ohio (Summit County) is a county organized pursuant to Article III of the Ohio Revised Code.

11. Defendant Summit County controls, funds, and otherwise operates SCACD pursuant to ORC §955.15 and its Codified Ordinances.

12. Defendant Christine Fatheree (Fatheree) is the current Director of SCACD and supervisor of Defendant Kristina Petroski.

13. Defendant Kristina Petroski (Petroski) is a current employee of SCACD and performs euthanasias of animals at SCACD.

14. The actions of SCACD, Summit County, Fatheree, and Petroski are often collectively referred to as actions of Summit County in this Complaint, as the shelter itself is likely not a *sui juris* entity.

15. At all relevant times, Summit County and SCACD acted by and through its agents, servants, and employees, including but not limited to its employees, both named in this action, and unknown employees, not named, but to be discovered.

16. All matters alleged to have occurred, and which are the subject of this Complaint, transpired within Summit County, Ohio.

FACTUAL ASSERTIONS

17. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

18. The territorial area of Summit County, Ohio is home to cats, both owned and unowned.

19. Plaintiff Alley Cat Allies has long been concerned about the plight of cats in the SCACD shelter, which, despite being one of the most highly-funded county-operated

shelters in Ohio, has traditionally failed to implement basic industry standard shelter management programs to ensure successful outcomes for the cats and dogs in its care, such as a public foster home program for cats or dogs who fail to thrive in a shelter environment.

20. Most county-operated dog warden shelters do not intake cats unless such cats are sick or injured and in need of immediate, compassionate care.

21. Because of SCACD's failure to implement basic industry standard life-saving programs, most cats with behavioral or medical concerns that fall into the custody of SCACD have, statistically speaking, no chance of survival unless such cats are taken into the custody of outside animal rescues or shelters.

22. Defendant Summit County accepts all cats and dogs for a fee of $25.00 and impounds such cats and dogs at SCACD.

23. In addition to accepting owner-surrendered cats and dogs, SCACD has also accepted intake of community cats, who are free-roaming cats who may or may not be feral.

24. A community cat may be cared for by one or more residents of the immediate areas and does not have an owner the way a strictly indoor cat would.

25. Community cats travel outside of traditional human-imposed territorial lines and thus, are not confined by borders.

26. O.R.C. 959.131(A)(1) provides that all cats are companion animals, whether owned or unowned.

27. Because community cats are unowned, they belong to the public trust and are owned in trust for the benefit of the public, including Plaintiff Alley Cat Allies.

28. Defendant Summit County accepts all cats without proof of ownership and with disregard for whether a cat is a community cat.

29. Defendant Summit County kills all cats its staff deems to be "feral."

30. Such cats deemed "feral" by Defendant Summit County are not given a chance to acclimate, nor are they otherwise evaluated by a professional with animal behavior experience prior to being killed.

31. Such cats deemed "feral" by Defendant Summit County may be killed on the very same day they are brought to SCACD.

32. R.C. 959.131(A)(1) provides that all dogs are companion animals, whether owned or unowned.

33. Because stray dogs and surrendered dogs are either unowned or "owned" by a governmental entity such as Defendant Summit County during and after a stray hold period, they belong to the public trust and are owned in trust for the benefit of the public, including Plaintiff Alley Cat Allies.

34. Per the SCACD euthanasia policy, all euthanasia will be done in accordance with ORC 4729.53.2 and guidelines set forth by the American Humane Association's "best" and "acceptable" practice standards for euthanasia.

35. ORC 4729.53.2 does not exist and the section that does exist, ORC 4729.53, does not prescribe legal euthanasia of companion animals in Ohio.

36. The euthanasia of companion animals in Ohio is governed by ORC 959.06(A).

37. Training for euthanasia of companion animals in Ohio is based upon the Humane Society of the United States' euthanasia reference manual (the manual).

38. The American Humane Association has not provided euthanasia training for companion animals in Ohio for over a decade.

39. Defendant Petroski was trained using the manual in April 2023.

40. Defendant Fatheree was trained using the American Humane Association standards in 2006 and has no updated certifications or euthanasia training since this date.

41. Euthanasia in companion animals is typically performed by either intravenous (IV) injection or intraperitoneal (IP) injection.

42. IV injection is the injection of sodium pentobarbital directly into an animal's vein, where the drug is carried by the circulatory system to the heart and then on to the brain. Once the proper quantity is injected, loss of consciousness is nearly instantaneous, and death quickly results.

43. For IV injections of cats and dogs, regardless of the vein used, the manual provides that the standard dosage of sodium pentobarbital in commercial formulations like Fatal-Plus and Pentasol is 1 milliliter for every 10 pounds of body weight.

44. IP injection involves the injection of sodium pentobarbital directly into an animal's abdominal cavity, the space in the abdomen surrounding most of the internal organs. Once the proper quantity is injected, loss of consciousness and death quickly results, but takes a longer time than IV injection, and for this reason, all animals given an IP injection should be immediately placed in a kennel with soft bedding where they can remain undisturbed until they have lost consciousness.

45. For IP injections of cats and dogs, the manual provides that the standard dosage of sodium pentobarbital in commercial formulations like Fatal-Plus and Pentasol is 3 milliliters for every 10 pounds of body weight.

46. The manual provides that both IV and IP euthanasia are recommended only for calm and friendly cats and dogs, as they require handling of the animal to ensure the proper, humane technique is utilized.

47. Ideally, every animal scheduled for euthanasia could be gently restrained for direct IV or IP injection of sodium pentobarbital. However, in reality not every animal can be safely handled with gentle physical restraint, and in some cases animals are so unsocialized or fearful that attempts at physical handling would sharply increase their level of stress. For those animals, the manual provides that pre-euthanasia drugs should be administered to render them unconscious before the lethal injection of sodium pentobarbital.

48. The manual provides that a fractious or fearful animal may be physically restrained for intramuscular injection of a pre-euthanasia drug with a control pole, squeeze cage, restraint gate, feral cat box, or other remote device, injected safely, then released to a quiet, low-stress environment while the drug takes effect. This release period allows the animal to relax, with the sense that the human interaction is over; the next time the animal is touched by human hands, she will be unconscious. Alternatively, some pre-euthanasia drugs can be administered without any contact or handling at all (including anesthetic inhalants, or oral administration of certain drugs). Once the animal has lost consciousness, the technician can safely handle the animal for injection of sodium pentobarbital without causing undue stress or discomfort.

49. The manual provides that effective use of sodium pentobarbital for euthanasia by IV or IP injection typically requires the participation of at least two trained staff members.

50. Per the SCACD euthanasia policy, an incident report must be filled out on the animal that outlines the behavior of the animal.

51. Per the SCACD euthanasia policy, management or "designated individual" will consult with staff and a veterinarian to determine whether an animal should be euthanized.

52. Per the SCACD euthanasia policy, pre-euthanasia anesthesia will be used when safety or technical difficulty makes IV administration impractical.

53. Per the SCACD euthanasia policy, there is no provision for pre-euthanasia anesthesia for IP administration.

54. Per the SCACD euthanasia policy, euthanasia of cats may be performed by one person, while the same is not true for dogs.

55. Per SCACD records and its euthanasia policy, cats are not weighed to determine euthanasia drug dosing, resulting in inconsistent drug dosing for cats.

56. Per SCACD records, only the dosage of euthanasia solution of unknown type and date administered is recorded.

57. On or about August 5, 2024, Defendant Summit County killed a cat identified as cat "A020328."[1]

58. Cat A020328 was a black, approximately 2 year old allegedly unowned cat of unknown gender surrendered to SCACD on August 1, 2024.

59. Per SCACD's records, cat A020328 was noted to be "feral – posing threat/danger to staff[,] approach with extreme caution."

60. On or about August 5, 2024, Defendant Petroski administered a dose of 3cc of euthanasia solution to cat A020328, a dose that should have been sufficient to kill an adult cat by either IV or IP administration if it were administered properly.

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[1] Only cats placed for adoption are given names by Defendant Summit County and thus, most are identified by number only.

61. On or about August 5, 2024, Defendant Petroski administered a second dose of 1cc of euthanasia solution to cat A020329, ultimately killing her.

62. On or about August 5, 2024, there is no record of pre-euthanasia solution administered to cat A020328 despite this cat's records describing her as a "danger."

63. On or about August 5, 2024, Defendant Summit County killed a cat identified as cat "A020329."

64. Cat A020329 was a black, approximately 2 year old allegedly unowned cat of unknown gender surrendered to SCACD on August 1, 2024.

65. Per SCACD's records, cat A020329 was noted to be "feral – posing threat/danger to staff[,] approach with extreme caution.

66. On or about August 5, 2024, Defendant Petroski administered a dose of 3cc of euthanasia solution to cat A020329, a dose that should have been sufficient to kill an adult cat by either IV or IP administration if it were administered properly.

67. On or about August 5, 2024, Defendant Petroski administered a second dose of 1cc of euthanasia solution to cat A020329, ultimately killing her.

68. On or about August 5, 2024, there is no record of pre-euthanasia solution administered to cat A020329 despite this cat's records describing her as a "danger."

69. On or about August 13, 2024, Defendant Summit County killed a kitten identified as kitten "A020419."

70. Kitten A020419 was a tabby, approximately 9 month old allegedly unowned kitten of unknown gender surrendered to SCACD on August 10, 2024.

71. Per SCACD's records, kitten A020419 was noted to have "attacked a staff member."

72. On or about August 13, 2024, Defendant Petroski administered a dose of 3cc of euthanasia solution to kitten A020419, a dose that should have been sufficient to kill a juvenile or adult cat by either IV or IP administration if it were administered properly.

73. On or about August 13, 2024, Defendant Petroski administered a second dose of 1cc of euthanasia solution to kitten A020419, ultimately killing her.

74. On or about August 13, 2024, there is no record of pre-euthanasia solution administered to kitten A020419 despite this cat's records describing her as having "attacked" a person.

75. Per SCACD's records, there is no notation of weights for any cat killed by Defendant Summit County from January 1, 2024 to present.

76. Per SCACD's records, there is no notation of pre-anesthesics being administered to any cat killed by Defendant Summit County from January 1, 2024 to present.

77. Per SCACD's records, there is no notation of the method of euthanasia administration for any cat killed by Defendant Summit County from January 1, 2024 to present.

78. Per SCACD's records, there is no notation of a second participant in the euthanasia of any cat killed by Defendant Summit County from January 1, 2024 to present.

79. Per SCACD's records, there is no incident report filled out on any of the cats that outlines the behavior of the animal.

80. Per SCACD's records, there is no notation of whether a veterinarian was consulted about any cat killed by Defendant Summit County from January 1, 2024 to present prior to euthanasia.

81. On or about March 18, 2024, Defendant Summit County killed a dog identified as dog "A019548."

82. Dog A019548 was named Lucy and was an 11 year old female Bloodhound mix breed dog surrendered to SCACD on the same day for an owner requested euthanasia.

83. Per SCACD's records, the cause for Lucy's killing was her age.

84. Per SCACD's records, Lucy was noted to weigh 90 pounds.

85. On or about March 18, 2024, Defendant Petroski administered a dose of 8cc of euthanasia solution to Lucy, a dose that was not proper for a 90 pound dog by either IV or IP administration pursuant to both the policy and the manual.

86. On or about March 18, 2024, Defendant Petroski administered a second dose of 4cc of euthanasia solution to Lucy, ultimately killing her.

87. On or about April 22, 2024 Defendant Summit County killed a dog identified as dog "A019708."

88. Dog A019708 was named Peanut and was a 2 year old male Pitbull breed dog delivered as an unowned stray to SCACD on April 17, 2024.

89. Per SCACD's records, Peanut was noted to be "aggressive towards staff, unable to handle."

90. Per SCACD's records, Peanut was noted to weigh 40 pounds.

91. On or about April 22, 2024, Defendant Petroski administered a dose of 3cc of euthanasia solution to Peanut, a dose that was not proper for a 40 pound dog by either IV or IP administration pursuant to both the policy and the manual.

92. On or about April 22, 2024, Defendant Petroski administered a second dose of 1cc of euthanasia solution to Peanut, ultimately killing him.

93. On or about April 22, 2024, there is no record of pre-euthanasia solution administered to Peanut, despite this dog's records describing him as not able to be "handled" and "aggressive."

94. On or about April 6, 2024, Defendant Summit County killed a dog identified as dog "A019651."

95. Dog A019651 was named Lonnie and was a 3 year old male Pitbull breed dog surrendered to SCACD on the same day for an owner requested euthanasia.

96. Per SCACD's records, the cause for Lonnie's killing was "aggression towards owners in the home."

97. Per SCACD's records, Lonnie was noted to weigh 85 pounds.

98. On or about April 6, 2024, Defendant Summit County's employee administered a dose of 4cc of euthanasia solution to Lonnie, a dose that was grossly improper for an 85 pound dog by either IV or IP administration pursuant to both the policy and the manual.

99. On or about April 6, 2024, Defendant Summit County's employee administered a second dose of 4cc of euthanasia solution to Lonnie, ultimately killing him.

100. On or about April 6, 2024, there is no record of pre-euthanasia solution administered to Lonnie, despite this dog's records describing him as "aggressive."

101. Per SCACD's records, there is no notation of pre-anesthesics being administered to for any dog killed by Defendant Summit County from January 1, 2024 to present.

102. Per SCACD's records, there is no notation of the method of euthanasia administration for any dog killed by Defendant Summit County from January 1, 2024 to present..

103. Per SCACD's records, there is no notation of a second participant in the euthanasia of any dog killed by Defendant Summit County from January 1, 2024 to present.

104. Per SCACD's records, there is no incident report filled out on any of the dogs that outlines the behavior of the animal.

105. Per SCACD's records, there is no notation of whether a veterinarian was consulted about any dog killed by Defendant Summit County from January 1, 2024 to present prior to euthanasia.

106. On October 24, 2024, Plaintiff sent a letter to Defendant Summit County outlining issues pertaining to the killing of animals by Defendants that were discovered via a public records request; there has been no response from Defendant Summit County to date.

CLAIMS FOR RELIEF
COUNT 1
CIVIL PROHIBITIONS CONCERNING COMPANION ANIMALS (O.R.C. 959.131(B))

107. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

108. Defendants did knowingly, needlessly kill a companion animal, to wit, one or more of 3 cats identified as cat A020328, cat A020329, and kitten A020419, causing unnecessary and unjustifiable suffering where there was a reasonable remedy or relief in violation of Ohio Revised Code 959.131(B).

109. Defendants did knowingly, needlessly kill a companion animal, to wit, one or more of 3 dogs identified as dogs A019548, A019708, and A019651, causing unnecessary and unjustifiable suffering where there was a reasonable remedy or relief in violation of Ohio Revised Code 959.131(B).

110. In addition to Defendant Petroski's conduct, Defendants Summit County, SCACD, and Fatheree failed to provide adequate training, monitoring, and supervision of its employees in the performance of their duties, contributing to the violation of Ohio Revised Code 959.131(B).

111. Defendants Summit County, SCACD, and Fatheree knew, or should have known, that the employees were acting in such a way and were aware of such violations, or should have been aware of such violations, had proper records been kept and other similar incidents been properly investigated.

112. Defendants Summit County, SCACD, and Fatheree had a legal duty and ample opportunity to intervene and prevent the conduct.

113. The failure of said Defendants Summit County, SCACD, and Fatheree to intervene was part of the pattern, practice, and custom to not intervene or prevent such incidents, but remain quiet to maintain silence and tacit acknowledgment and approval of such actions as accomplices.

114. As a result of Defendants' wrongful and sustained actions, the subject cats and dogs suffered unnecessarily and unjustifiably, and as the cats and dogs' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 2
CIVIL PROHIBITIONS CONCERNING COMPANION ANIMALS
(O.R.C. 959.131(D)(1))

115. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

116. Defendants, who confined or who were the custodian or caretaker of a companion animal, to wit, one or more of 3 cats identified as cat A020328 , cat A020329, and kitten A020419, did torture, torment, or commit an act of cruelty against the companion animal by failing to provide appropriate euthanasia to the animal(s), causing unnecessary and

unjustifiable suffering where there was a reasonable remedy or relief in violation of Ohio Revised Code 959.131(D)(1).

117. Defendants who confined or who were the custodian or caretaker of a companion animal, to wit, one or more of 3 dogs identified as dogs A019548, A019708, and A019651, did torture, torment, or commit an act of cruelty against the companion animal by failing to provide appropriate euthanasia to the animal(s), causing unnecessary and unjustifiable suffering where there was a reasonable remedy or relief in violation of Ohio Revised Code 959.131(D)(1).

118. In addition to Defendant Petroski's conduct, Defendants Summit County, SCACD, and Fatheree failed to provide adequate training, monitoring, and supervision of its employees in the performance of their duties, contributing to the violation of Ohio Revised Code 959.131(D)(1).

119. Defendants Summit County, SCACD, and Fatheree knew, or should have known, that the employees were acting in such a way and were aware of such violations, or should have been aware of such violations, had proper records been kept and other similar incidents been properly investigated.

120. Defendants Summit County, SCACD, and Fatheree had a legal duty and ample opportunity to intervene and prevent the conduct.

121. The failure of said Defendants Summit County, SCACD, and Fatheree to intervene was part of the pattern, practice, and custom to not intervene or prevent such incidents, but remain quiet to maintain silence and tacit acknowledgment and approval of such actions as accomplices.

122. As a result of Defendants' wrongful and sustained actions, the subject cats and dogs suffered unnecessarily and unjustifiably, and as the cats and dogs' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 3
DESTRUCTION OF DOMESTIC ANIMALS (O.R.C. 959.06(B)(2))

123. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

124. Defendants did destroy a domestic animal, to wit, one or more of 3 cats identified as cat A020328 , cat A020329, and kitten A020419, by any method other than a method that immediately and painlessly renders the domestic animal initially unconscious and subsequently dead in violation of Ohio Revised Code 959.06(B)(2).

125. Defendants did destroy a domestic animal, to wit, one or more of 3 dogs identified as dogs A019548, A019708, and A019651, by any method other than a method that immediately and painlessly renders the domestic animal initially unconscious and subsequently dead in violation of Ohio Revised Code 959.06(B)(2).

126. In addition to Defendant Petroski's conduct, Defendants Summit County, SCACD, and Fatheree failed to provide adequate training, monitoring, and supervision of its employees in the performance of their duties, contributing to the violation of Ohio Revised Code 959.06(B)(2).

127. Defendants Summit County, SCACD, and Fatheree knew, or should have known, that the employees were acting in such a way and were aware of such violations, or should have been aware of such violations, had proper records been kept and other similar incidents been properly investigated.

128. Defendants Summit County, SCACD, and Fatheree had a legal duty and ample opportunity to intervene and prevent the conduct.

129. The failure of said Defendants Summit County, SCACD, and Fatheree to intervene was part of the pattern, practice, and custom to not intervene or prevent such incidents, but remain quiet to maintain silence and tacit acknowledgment and approval of such actions as accomplices.

130. As a result of Defendants' wrongful and sustained actions, the subject cats and dogs suffered, and as the cats and dogs' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 4
PERFORMING EUTHANASIA BY MEANS OF LETHAL INJECTION ON ANIMAL (O.R.C. 4729.532(D)(2))

131. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

132. Defendants did destroy a domestic animal, to wit, one or more of 3 cats identified as cat A020328, cat A020329, and kitten A020419, by any method other than a method that immediately and painlessly rendered the domestic animal initially unconscious and subsequently dead in violation of O.R.C. 959.06(B)(2).

133. Defendants did destroy a domestic animal, to wit, one or more of 3 dogs identified as dogs A019548, A019708, and A019651, by any method other than a method that immediately and painlessly renders the domestic animal initially unconscious and subsequently dead in violation of Ohio Revised Code 959.06(B)(2).

134. Defendants, an agent or employee of an animal shelter or county dog warden, while performing euthanasia by means of lethal injection or administering pre-euthanasia drugs that induce anesthesia, sedation, or unconsciousness did not do so in a humane and proficient manner that is in conformity with the methods described in divisions (A) and (B) of this section and not in violation of Chapter 959 of the Revised Code.

135. As a result of Defendants' wrongful and sustained actions, the subject cats and dogs suffered, and as the cats and dogs' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 5
RECORD KEEPING (O.A.C. 4729:5-15-03)

136. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

137. Defendant Summit County, an animal shelter or county dog warden, is required to keep a record of all dangerous drugs received, administered, personally furnished, disposed, sold or transferred.

138. Defendant Summit County, an animal shelter or county dog warden, is required to keep records of receipt that shall contain the name, strength, dosage form, and quantity of the dangerous drugs received, the name and address of the seller, the name and address of the recipient, and the date of receipt.

139. Defendant Summit County, an animal shelter or county dog warden, is required to keep records of administration or use that contain the name, strength, dosage form, and quantity of the dangerous drugs administered, the name or identification of the animal to whom or for whose use the dangerous drugs were administered, and the date of

administration, and for controlled substance dangerous drugs, the administration record shall also include the positive identification of the person administering the drug.

140. Defendants did destroy a domestic animal, to wit, one or more of 3 cats identified as cat A020328, cat A020329, and kitten A020419, for which each record of drug administration is in violation of O.A.C. 4729:5-15-03.

141. Defendants did destroy a domestic animal, to wit, one or more of 3 dogs identified as dogs A019548, A019708, and A019651, for which each record of drug administration is in violation of O.A.C. 4729:5-15-03.

142. Between January 1, 2024 and September 18, 2024 alone, Defendants killed 65 cats, for which each record of drug administration is in violation of O.A.C. 4729:5-15-03.

143. As a result of Defendants' wrongful and sustained actions, the subject cats and dogs suffered, and as the cats and dogs' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 6
UNLAWFUL TAKING
DEPRIVATION OF PROPERTY AND DUE PROCESS
(42 U.S.C. § 1983)

144. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

145. Defendants, acting under color of state law, are depriving Plaintiff, and others similarly situated, of their property rights and other interests secured by the Ohio and United States Constitution in violation of 42 U.S.C. 1983.

146. Defendants knew, or should have known, that their above-described conduct violated and will, with reasonable certainty, violate in the future Plaintiff's rights which are secured by the Ohio and U.S. Constitution, in violation of 42 U.S.C. § 1983.

147. Defendants, by their conduct, as described herein, and acting under color of state law, have deprived and will, with reasonable certainty, in the future deprive Plaintiff or otherwise diminish Plaintiff's beneficial interest in its right to possess, care for, and maintain community cats, which Plaintiff has a legitimate claim of entitlement to and interest in.

148. The acts of the Defendants impermissibly violated and will, with reasonable certainty, in the future violate Plaintiff's substantive and procedural due process rights by applying the law contrary to constitutional parameters, and by taking community cats without due process.

149. The seizure and taking of community cats, which Plaintiff has a legitimate claim of entitlement to and interest in, by Defendants' employees and agents is being conducted pursuant to a policy, practice, or custom that violates the United States and Ohio Constitutions.

150. There is no mechanism which exists for Plaintiff to prevent unconstitutional application and enforcement of said seizure and taking or to prevent the impairment of the beneficial interest in such property held equally by Plaintiff and other Summit County citizens from the actions set forth above.

151. As beneficiaries of a trust, Plaintiff has standing to enjoin a breach of the public trust before it occurs.

152. As a direct and proximate result of the acts as stated herein by each of the Defendants, Plaintiff's constitutional rights have been violated and will be violated in the future, the subject cats suffered and other cats will suffer, and as the animals' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 7
FIRST AMENDMENT VIOLATION - FREEDOM OF SPEECH
(42 U.S.C. § 1983)

153. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

154. Plaintiff avers that its nonprofit activities in Summit County as outlined above are protected expression and actions.

155. The actions complained of herein by Defendants violated and will, with reasonable certainty, in the future violate the Plaintiff's right to free speech under the First Amendment of the U.S. Constitution and similar provisions of the Ohio Constitution.

156. Plaintiff, and others similarly situated, have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from continuing their unlawful policies, practices, customs, procedures, standards and/or methods, which have directly and proximately caused such constitutional abuses.

157. As a direct and proximate result of the acts as stated herein by each of the Defendants, Plaintiff's constitutional rights have been violated and will be violated in the future, and Plaintiff and the public at large suffered damages, both economic and non-

economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

COUNT 8
MONELL CLAIM

158. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

159. At all relevant times herein, Defendants, acting through the individual defendants, developed, implemented, enforced, encouraged and sanctioned de facto policies, practices, and/or customs exhibiting deliberate indifference to Plaintiff's constitutional rights which caused violation of such rights.

160. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive Plaintiff of its conditional rights under the Fourteenth Amendment to the U.S. Constitution and the Ohio Constitution.

161. Defendants maintain a policy and/or custom of deliberate indifference to the rights of the citizens of Ohio, and such policy and/or custom is part of a pattern of unconstitutional violations by Defendants.

162. Defendants, knew, or should have known, that the Defendants would confront situations such as the events which form the basis of the actions herein stated.

163. The failure to provide its employees with proper and adequate training failed to furnish these individuals with appropriate knowledge to make proper and informed decisions which resulted in the deprivation of Plaintiff's constitutional rights.

164. Defendants pursued an official policy and/or custom of failing to provide adequate training, monitoring, and supervision of its employees in the performance of their duties and the protection of the constitutional rights of the citizens.

165. Defendants failed to provide adequate training, monitoring, and supervision of its employees, in the performance of their duties and to ensure the constitutional protections of citizens.

166. Defendants' failure to provide adequate training, monitoring, and supervision of its employees resulted in a deprivation of clearly established constitutional protections for citizens.

167. Defendants knew, or should have known, that the employees were acting in such a way as to violate the constitutional rights of citizens they encounter while performing their duties, and were aware of such constitutional violations, or should have been aware of such constitutional violations, had other similar incidents been properly investigated.

168. Defendant Fatheree, her supervisors, and other employees had a legal duty and ample opportunity to intervene and prevent the unconstitutional conduct.

169. The failure of said Defendants to intervene was part of the pattern, practice, and custom to not intervene or report such incidents, but remain quiet to maintain silence and tacit acknowledgment and approval of such actions.

170. The constitutional violations committed by Defendants were and are directly and proximately caused by policies, practices, and/or customs developed, implemented, enforced, encouraged, and sanctioned by Defendants including the failure: (a) to adequately supervise and train its officers and agents, including the individual Defendants, thereby failing to adequately discourage further constitutional violations; (b) to properly and adequately monitor and discipline its employees, including Defendant Fatheree and Defendant Petroski, and (c) to adequately and properly investigate citizen complaints.

171. As a direct and proximate result of the acts as stated herein by each of the Defendants, Plaintiff's constitutional rights have been violated, the subject cats and dogs suffered, and as the animals' guardians in the public trust, Plaintiff and the public at large suffered damages, both economic and non-economic, including, but not limited to, lost productivity, expenses incurred, and loss of intangible assets, the amount of which to be established at trial, costs, and attorney's fees.

172. Plaintiff suffered, and continues to suffer, injuries and damages as a direct and proximate result of the above-described conduct of Defendants, as will more fully appear at trial, and its costs, including its reasonable attorneys' fees, pursuant 42 U.S.C. 1988.

COUNT 9
MANDAMUS

173. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

174. Defendants have the legal duty to abide by Chapter 959 of the Ohio Revised Code and 4729:5-15-03 of the Ohio Administrative Code.

175. Plaintiff is entitled to a writ of mandamus directing Defendants to comply with Chapter 959 of the Ohio Revised Code and 4729:5-15-03 of the Ohio Administrative Code as it pertains to Defendants' killing of cats and dogs.

176. Plaintiff has a clear legal right to protect unowned cats and dogs in the public trust from Defendants' failure to comply with Chapter 959 of the Ohio Revised Code and 4729:5-15-03 of the Ohio Administrative Code.

177. Plaintiff has no other judicial avenue by which to stop Defendants' illegal behavior in noncompliance with Chapter 959 of the Ohio Revised Code and 4729:5-15-03 of the Ohio Administrative Code as it pertains to Defendants' killing of cats and dogs.

178. Plaintiff has met the established requirements for a writ to be issued: 1) Plaintiff has a clear legal right to the relief prayed for; 2) Defendants have a clear legal duty to perform the acts requested; and 3) Plaintiff has no plain and adequate remedy in the ordinary course of law. *State ex rel. Manson v. Morris*, 66 Ohio St.3d 440, 441 (1993).

179. As a direct and proximate result of these actions, Plaintiff is entitled to attorneys' fees, costs, and statutory damages.

COUNT 10
DECLARATORY AND INJUNCTIVE RELIEF

180. Plaintiff hereby incorporates all of the above paragraphs as if fully rewritten herein.

181. There exists an actual, present, and justiciable controversy between Plaintiff and Defendants concerning Defendant's ongoing killing of cats and dogs in violation of Chapter 959 of the Ohio Revised Code and 4729:5-15-03 of the Ohio Administrative Code.

182. Without intervention by this court, Plaintiff has no adequate remedy at law and will suffer irreparable harm, thereby entitling it to injunctive relief.

183. Defendants' course of conduct has caused, and will continue to cause, Plaintiff and cats and dogs to suffer real and immediate threat of irreparable injury, as a result of the existence, operation, enforcement, and prosecution.

184. Plaintiff has no plain, speedy, or adequate remedy at law for such an injury.

185. This controversy is ripe for judicial decision, and declaratory relief is necessary and appropriate so that the parties may know the legal obligations that govern their present and future conduct.

186. Plaintiff asks this Court to Order Defendants, as well as their agents, representatives, and employees, and all other persons acting in concert or participation with them, to keep

lawful euthanasia records and immediately cease its inhumane killing of cats and dogs in contravention of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands Judgment as follows:

1. A writ of mandamus as to Counts 1-5, directing the Defendants to comply with the requirements set forth in Chapter 959 of the Ohio Revised Code and 4729:5-15-03 of the Ohio Administrative Code;
2. For preliminary and permanent injunctions as described in Count 10;
3. For declaratory relief as described in Count 10;
4. As to Counts 1-8, for judgment in favor of Plaintiff and against the Defendants in an amount to be determined by the trier of fact in this matter and in the form of compensatory damages, statutory damages, plus interest and punitive damages;
5. For costs of the action and reasonable attorney fees; and
6. For any other and further relief to which the Plaintiff may be entitled.

JURY DEMAND

The Plaintiff herein demands that this action be tried to a jury as provided by law.

Respectfully submitted,
HOLLAND & MUIRDEN

/s/ DanaMarie K. Pannella

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served by email on this date to:

Aaron Campbell, Esq.
acampbell@prosecutor.summitoh.net
Counsel for County Defendants

3/3/2025 — Date

/s/ DanaMarie K. Pannella
DanaMarie K. Pannella
Attorney for Plaintiff